

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

FILED
DATE: January 13, 2010
5 O'Clock P.M.
JEANNE HICKS, CLERK
BY: Jennifer Kuns
Deputy w/b

DIVISION: 6

JEANNE HICKS, CLERK

HON. THOMAS B. LINDBERG

By: Rachel Roehe and Jennifer Kuns, Deputy Clerks

CASE NO. P1300CR20081339

DATE: January 13, 2010

TITLE:

COUNSEL:

STATE OF ARIZONA

Yavapai County Attorney

(Plaintiff)

(For Plaintiff)

vs.

STEVEN CARROLL DEMOCKER

John Sears

(D-1)

107 North Cortez Street, Suite 104
Prescott, AZ 86301

Larry Hammond

Anne Chapman

OSBORN MALEDON, P.A.

2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012

(For Defendant)

HEARING ON:

NATURE OF PROCEEDINGS

COURT REPORTER

Oral Argument Re: Pending Motions

Lisa Chaney

START TIME: 9:05 a.m.

APPEARANCES: Joseph Butner, Deputy County Attorney
Steven DeMocker, Defendant
John Sears, Counsel for Defendant
Larry Hammond, Counsel for Defendant
Anne Chapman, Counsel for Defendant

Court convenes in chambers with the presence of Counsel and the Defendant.

Motion in Limine Re: Counsel as Witness:

Counsel argue the motion.

The Court directs Defense Counsel to bring in the memorandum for review tomorrow.

The Court believes that the Motion in Limine should be granted in favor of a stipulation. The issue of a stipulation and the memorandum redactions will be taken up tomorrow.

The Court **ORDERS** that the record of this in chambers proceeding shall be sealed from the public. The Court does not order sealing this minute entry.

~*~*~*~*~ Recess – 9:30 a.m. ~*~*~*~*~*~

At 9:51 a.m., Court reconvenes with the presence of all parties previously present.

Motion in Limine Re: Huante and Brown Reconstructions:

Douglas Brown is sworn and testifies.

Defense Exhibits 158-162 are marked for identification.

State Exhibit 163 is marked for identification.

Upon request of the State, the Court **ORDERS** vacating the marking of Exhibit 163 for identification and releases the exhibit to the State.

~*~*~*~*~ Recess – 10:39 a.m. ~*~*~*~*~

At 10:51 a.m., Court reconvenes with the presence of all parties previously present.

Douglas Brown resumes the witness stand and testifies further.

Exhibits 158 through 162 are admitted into evidence without objection.

The witness is excused.

Luis Huante is sworn and testifies.

State Exhibit 163 is marked for identification.

Exhibit 163 is admitted into evidence without objection and is published to the Court.

~*~*~*~*~ Recess – 12:04 p.m. ~*~*~*~*~

At 1:34 p.m., Court reconvenes with the presence of all parties previously present.

The Court advises Counsel that he has reviewed admitted Exhibit 163 and notes there is additional material on Exhibit 163 that was not part of the record. Counsel for the State has an extra copy of Exhibit 163. The Court directs that the extra copy be substituted as admitted Exhibit 163.

Luis Huante resumes the witness stand and testifies further.

The witness is excused.

Counsel Sears and Counsel for State present argument on the Motion in Limine Re: Huante and Brown Reconstruction.

The Motion in Limine Re: Huante and Brown Reconstruction is **granted** in part and **denied** in part..

For the reasons as stated on the record, Detective Sgt. Huante's video, the distance and measurements made by either Detective Huante or Detective Brown, and the photographs taken along the way are all admissible in the State's case in chief. For the purposes on the State's case in chief, the Court excludes the testimony regarding the time calculated by Detective Brown in his efforts to reconstruct the ride of Mr. Democker as described by Mr. Democker on the evening of July the 2nd.

The Court addresses the Motion to Declare Death Qualifications of the Jury Unconstitutional for its Failure, in Practice, to Meet the Minimum Constitutional Requirements Set Forth in Furman, Gregg and their Progeny.

Counsel Hammond and Counsel for State present argument on the Motion.

For the reasons as stated on the record, the Motion to Declare Death Qualifications of the Jury Unconstitutional is **denied**. In addition, the Request for a Second Jury is **denied**.

~*~*~*~*~ Recess – 3:26 p.m. ~*~*~*~*~*~

At 3:44 p.m., Court reconvenes with the presence of all parties previously present.

Court and Counsel address the proposed drafted jury questionnaire. Counsel Sears advises the Court that there is an agreement with questions 1 through 71 leading up to the death penalty questions with the possible exception of question 17. Court and Counsel address the proposed jury questionnaire questions 17 and 73 through 96.

~*~*~*~*~ Recess – 4:50 p.m. ~*~*~*~*~*~

At 4:53 p.m., Court reconvenes with the presence of all parties previously present.

The Court notes he had planned on the possibility of a number of witnesses tomorrow on the Defendant's Motion in Limine to Preclude Prior Act Evidence Pursuant to Rule 404(b). The Court has been advised by the State there are some issues arising from some of the prior act evidence witnesses. Counsel for the State advises the Court his witness, Barbara Onon, will be asserting her 5th amendment rights. The Court notes he has received a Motion to Quash the Subpoena from a Mr. Terribile, who is representing Ms. Onon.

END TIME: 5:00 p.m.

cc: VS (e)
Dean Trebesch (Contract Administrator) (PD) (e)
YCSO (e)
Christopher DuPont, Trautman DuPont PLC, 245 W Roosevelt, Ste. A Phoenix, AZ 85003,
Counsel for Victims Charlotte and Katherine DeMocker